

**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA**

<b>STATE OF OKLAHOMA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 05-CV-00329-GKF-SAJ</b>
	)	
<b>TYSON FOODS, INC., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**SUPPLEMENTAL OBJECTIONS AND RESPONSES OF STATE OF OKLAHOMA TO  
SEPARATE DEFENDANT COBB-VANTRESS, INC.'S SECOND SET OF  
INTERROGATORIES PROPOUNDED TO PLAINTIFFS**

COMES NOW, the Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA, (hereinafter "the State") and supplements its previous response to Defendant Cobb-Vantress, Inc's Second Set of Interrogatories in accordance with the Court's Order of February 26, 2007 (Dkt #1063). The State incorporates its previous responses and objections to these interrogatories as if fully stated herein. Further, the State reserves the right to supplement its responses as additional responsive information is identified.

**Interrogatory No. 3:** Please describe in detail all actions or measures which you believe or contend will be necessary to address, ameliorate, or remediate the injury to the IRW which you allege has been caused by the acts or omissions of the defendants in this Lawsuit, and in doing so for each action or measure, state the time period You contend the action or measures will be necessary, the locations of or geographic scope You propose for the implementation of each such action or measure, the estimated cost for each such action or measure. Also please Identify all Documents Related to alleged necessary actions or measures.

**SUPPLEMENTAL ANSWER TO INTERROGATORY NO.3**

The State objects to this interrogatory on the ground that it improperly seeks identification of “all” items of responsive information, which renders it overly broad and oppressive. It may be impossible to locate “all” items of responsive information to this interrogatory.

The State objects to this interrogatory to the extent that it seeks attorney client and work product protected material, or information known or opinions held by expert consultants retained or specifically employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). The State will disclose information known or opinions held by expert consultants employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court’s Scheduling Order (Dkt #1075). The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports.

The State incorporates its previous response and objections to this interrogatory as if fully stated herein. Subject to and without waiving any general or specific objections, one or more of the following measures, without limitation, may be necessary to address, ameliorate or remediate

injury to the IRW caused by acts or omissions of Defendants. The following measures are illustrative and do not necessarily include all measures required to address, ameliorate or remediate the State's injuries, or all measures required to assess and characterize those injuries and monitor the progress of the steps needed to address, ameliorate or remediate the State's injuries:

1. Cease land application of poultry waste in those areas within the Illinois River Watershed determined to be unsuitable for land application. Areas deemed to be unsuitable for land application include, but not are limited too, those areas which exceed the needed nutrients contained in poultry waste based upon soil testing and / or which have geological, topographical and other natural or man-made factors that make land application a risk to the environment.
2. Limiting land application of poultry waste to areas where there can be no discharge or runoff of poultry waste or pollutants, directly or indirectly, to the waters of the Illinois River Watershed.
3. Creating riparian buffers and field buffers/strips to prevent the discharge or runoff of poultry waste or pollutants, directly or indirectly, to waters of the Illinois River Watershed.
4. Undertaking stream bank stabilization to prevent erosion of soils saturated with poultry waste from running off or discharging, directly or indirectly, to waters of the Illinois River Watershed
5. Hauling poultry litter out of the Illinois River Watershed to be safely disposed of outside the Illinois River Watershed.

6. Undertaking restoration of riparian habitat within the Illinois River Watershed.
7. Undertaking restoration or remediation of those areas determined to be contaminated with excess nutrients and / or other pollutants.
8. Ensuring that poultry waste is safely stored in areas where it cannot leach, runoff or discharge, directly or indirectly into the waters within the Illinois River Watershed or otherwise contaminate the environment.
9. Implementing other measures which may appear necessary as assessment and discovery goes forward.

The "where, when and how" of the implementation of the above and any other measures will be determined in consultation with the State's experts -- a process which is underway but which is not yet completed. Accordingly, the State has not yet determined the cost of implementing any or all of these measures. The State will supplement this interrogatory pursuant to the Court's Scheduling Order [Dkt #1075]. Documents which pertain to this interrogatory, include but are not limited to, the following:

1. *"Demonstrating BMPs to Protect Surface Water Quality from Land Application of Animal Wastes"* U.S. Environmental Protection Agency FY 94 Section 319(h) Task #700, Final Report, Submitted to the Oklahoma Conservation Commission for the U.S. Environmental Protection Agency, by Storm et.al.  
[http://www.okcc.state.ok.us/WQ/WQ\\_reports/REPORT057.pdf](http://www.okcc.state.ok.us/WQ/WQ_reports/REPORT057.pdf)
2. Beaty Creek 319 Demonstration Project-Oklahoma Conservation Commission- Information relating to Beaty Creek demonstration project were located in OCC WQ Box 10B.

3. Peacheater Creek 319 Demonstration Project-Oklahoma Conservation Commission- Information relating to Peacheater Creek and the Illinois River monitoring project were located in OCC WQ Box 10C.
4. Documents relating to 319 projects are found in the Office of the Secretary of the Environment. These documents are the original grant files between the contracting agency and EPA. The grant files are located in Boxes 1-6.
5. Coordinated Watershed and Restoration Protection Strategy for Oklahoma's Impaired Scenic Rivers (Per SB 972) 2002, 2004-2006 Update located at <http://www.environment.ok.gov/>.
6. Watershed Restoration Strategy for the Illinois River (OCC 1999) located at [https://www.deq.state.ok.us/WQDnew/pubs/illinois\\_river\\_wras\\_final.pdf](https://www.deq.state.ok.us/WQDnew/pubs/illinois_river_wras_final.pdf).
7. Diagnostic and Feasibility Study on Tenkiller Lake, Clean Lakes Report, Oklahoma – June 1996 located at OSRC 1-30.
8. Basin-Wide Pollution Inventory for the Illinois River Comprehensive Basin Management Program located at:  
  
([http://www.okcc.state.ok.us/WQ/WQ\\_reports/REPORT043.pdf](http://www.okcc.state.ok.us/WQ/WQ_reports/REPORT043.pdf)).
9. Managing Phosphorus from Animal Manure – F-2249 (OSU) located at <http://www.osuextra.com>.
10. Soil Phosphorus Levels; Concerns and Recommendations (Univ. of Ark.) located at <http://www.uaex.edu>.

The State will supplement this list as additional responsive documents are identified.